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FISCAL IMPACT STATEMENT

LS 6694

BILL NUMBER: SB 183

NOTE PREPARED: Jan 21, 2004

BILL AMENDED: Jan 20, 2004

SUBJECT: Natural resource matters.

FIRST AUTHOR: Sen. Weatherwax

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill increases from \$50,000 to \$75,000 the cost of projects that the Department of Natural Resources (DNR) may perform without awarding a public works contract. This bill also adopts the Pest Control Compact. The bill establishes procedures to obtain funds from the Pest Control Insurance Fund. It increases penalties for violation of certain oil and gas well laws. This bill also makes technical corrections. (The introduced version of this bill was prepared by the Natural Resources Study Committee.)

This bill also makes changes to the organization and duties of the Division of State Museums and Historic Sites. It establishes the Historic Site Fund and requires fees to be deposited in the fund. The bill provides that at least 51% of the fees collected from a particular historic site must be used for educational programs at the historic site and for maintenance and operation of the historic site.

This bill changes the procedures for the Wabash River Heritage Commission to pay claims.

The bill also adopts the Pest Control Compact. It establishes procedures to obtain funds from the Pest Control Insurance Fund. It increases penalties for violation of certain oil and gas well laws. It also makes technical corrections. (The introduced version of this bill was prepared by the Natural Resources Study Committee.)

Effective Date: July 1, 2004.

Explanation of State Expenditures: (Revised)

DNR Public Works. Currently, IC 4-13.6-5-4 limits construction projects that the DNR can complete using DNR employees to those projects that cost less than \$50,000. (IC 4-13-2-11.1 limits the Department of

Correction to projects costing less than \$100,000. All other state agencies are limited to \$75,000.) This bill increases the DNR limit from \$50,000 to \$75,000. Raising the limit could increase the number and types of projects that the DNR could complete using its own workforce which could reduce DNR expenditures to the extent that the DNR would not need to contract for additional outside services. DNR's seasonal work cycle would allow staff to complete construction projects during winter months when public visitation to its properties is minimal.

The proposal would not require the DNR to complete all projects under \$75,000, but would provide the Department with the option to do so. The table below outlines DNR project costs that were bid for 2001 and 2002.

Project Costs Bid by the Department of Natural Resources									
Year	Less than \$50,000			\$50,000 to \$75,000			Greater than \$150,000		
	Number	Costs	% of total	Number	Costs	% of total	Number	Costs	% of total
2001	61	\$902,279	4%	8	\$534,326	2%	38	\$23,169,810	94%
2002	83	\$1,050,852	6%	10	\$652,778	3%	40	\$17,224,920	91%
2-Year Total	144	\$1,953,131	4%	18	\$1,187,104	3%	78	\$40,394,730	93%
Total projects bid for 2001 equaled \$24,606,415 with \$18,928,550 bid in 2002. The 2-year total for all projects bid equaled \$43,534,965.									

Pest Control Compact. The Interstate Pest Control Compact is an insurance fund. Currently, 34 states belong. To join, Indiana must pay a one-time fee of \$33,342. However, this expense can be paid over a six-year period, which would result in an annual payment of \$5,557.

Background Information: The Pest Control Insurance Fund is established to finance other than normal pest control operations that states may be called upon to engage in under the compact. The fund consists of money appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except under certain circumstances, must be unconditional and may not be restricted by the appropriating state to use in the control of any specified pest or pests. The fund is administered by a governing board and executive committee.

Each party state must have a compact administrator who shall assist in the coordination of activities under the compact and represent the compact's administrator's state on the governing board of the fund. The governing board must meet at least once each year to determine policies and procedures in the administration of the fund and supervising and giving direction to the expenditure of money from the fund. The Commissioner of Agriculture will serve as compact administrator for Indiana. The Office of the Commissioner should be able to absorb any additional administrative expenses required given its current budget.

Each of the state's budgets must contain specific recommendations of the amount to be appropriated to the fund. The request for appropriations must be apportioned among the party state based on the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party

state. The fund must not pledge the credit of any party state. The fund may meet any obligation with money available.

The compact provides financial assistance for participating states in certain cases of pest infestation. For example, the Emerald Ash Borer is an insect that can destroy North American ash trees. Currently, infestations are found in southeastern Michigan, Toledo, and Hicksville, Ohio. The Hicksville infestation is within two miles of the Indiana border. In Detroit, 3,000 square miles contain infested ash trees. When a borer is found, ash trees within a one-half mile radius must be destroyed. The DNR, U.S.D.A, and the U.S. Forest Service are conducting surveys in northern Indiana. Although the Emerald Ash Borer has not yet been found in Indiana, the DNR has been monitoring trees imported from infested areas. Funds from the compact can be used to fight against the infestation of the Emerald Ash Borer.

Oil and Gas Reporting. The bill would create a Class D felony for knowingly falsifying any written certification or verification required under IC 14-37. A separate offense would be charged for each falsification. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$25,087 in FY 2001. Individual facility expenditures ranged from \$18,520 to \$54,465. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Historic Sites. The DNR provides administrative support to the Natural Resources Commission. The bill allows the Commission to set, collect, and review admission fees for historic sites. This provision will result in administrative expenses for the DNR. Each site that is currently not collecting a fee would experience a one-time operational cost of approximately \$2,505. Total statewide one-time costs would equal \$21,620. This figure includes setup costs for cash registers, credit card machines, phone lines, etc. Other ongoing costs are estimated at \$55,812. (See table below under *Explanation of State Revenues*.) However, the bill also establishes the Historic Site Fund to finance administrative costs incurred.

The bill also changes the organization and duties of the Division of State Museums and Historic Sites. Under current law, the Division consists of two sections: the section of museums and the section of historic sites. Currently, the division director may not serve as the head of a section of the division and an individual may not serve as the head of more than one section of the division. This proposal allows the division director to head a section of the division and allows an individual to head both divisions. This provision could change administrative expenses for the Department. The fiscal impact will depend on how the Department elects to implement the provision.

The proposal also allows the Division of State Museums and Historic Sites to do the following:

- (1) Make and execute contracts or other instruments that are necessary or convenient to exercise the division's duties and powers.
- (2) Employ or contract with a person to manage or operate any aspect of the state museum or historic sites.
- (3) Pay royalties, license fees, and charges for exhibits, artifacts, artwork, and other materials.
- (4) Own and enforce the division's copyrights, trademarks, and service marks.

The fiscal impact of these provisions is indeterminable but will depend on current practice and how the DNR elects to implement the provisions.

The bill also changes the composition of the board of trustees for the Division of State Museums and Historic

Sites; however, the number of trustees remains at 13. A fiscal impact would result only if new members resulted in different reimbursements for mileage. However, this impact is not expected to be significant.

The bill also eliminates provisions that require the trustees to nominate, when the position of division director is vacant, a person to be appointed by the director to that position; to recommend the dismissal of a division director; and to make recommendations concerning the salary ranges of the administrative, professional, and technical staff of the division. It is anticipated that this provision would not result in a significant fiscal impact.

Wabash River Heritage Commission: Under current law, the Commission can not spend funds to pay a claim without the signatures of the president of the Commission or the Treasurer and the Director or Director's designee. The proposal eliminates the requirement for these signatures. This provision would impact expenditures only to the extent that payments without signatures might be delayed under current law. Eliminating the requirement that signatures be included could expedite the payment process.

The Commission consists of county executives from following counties: Adams, Allen, Carroll, Cass, Fountain, Gibson, Huntington, Jay, Knox, Miami, Parke, Posey, Sullivan, Tippecanoe, Vermillion, Vigo, Wabash, Warren, and Wells. The Commission is funded by appropriations made to the fund and any other funds obtained by the Commission.

Explanation of State Revenues: (Revised)

Pest Control Compact. The Pest Control Insurance Fund may accept donations, grants, equipment, supplies, materials, and services. The Commissioner of Agriculture may request revenues from the fund to pay for pest infestations. The amount of revenue that Indiana will have access to will depend on the number and nature of pest infestations. The department, agency or officer expending or becoming liable for an expenditure on account of a control or eradication program undertaken under the compact must have credited to the entity's account in the State Treasury the amount of any payments made to defray the costs of the program or as reimbursement from the program.

Oil and Gas Reporting. Civil Penalty: Under current law, a violation of oil and gas well laws results in a civil penalty of not more than \$10,000, which is deposited in the Oil and Gas Environmental Fund. Under the bill, the maximum civil penalty would increase to \$20,000. Fines and penalties paid to the Oil and Gas Environmental Fund could increase if the maximum civil penalty is increased. In FY 2003, fines and penalty revenue to the Fund totaled \$6,050.

Class D Felony: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the State General Fund.

Historic Sites. This bill allows the Natural Resources Commission to set, collect, and review admission fees for historic sites. The Division of State Museums and Historic Sites could collect admission charges, fees, rent, and other user fees for the following:

- (1) The state museum and historic sites.
- (2) Restaurants and other facilities located at the state museum or historic sites.
- (3) Programs, lectures, classes, tours, and trips provided at the state museum or historic sites.

The Division may also sell merchandise and donate or exchange artifacts in the division's collection to or with

a public or nonprofit museum or historical society.

Based on 2002 attendance figures and based on admission fees ranging from \$3 to \$6, and given the economy and the fact that fees may initially result in a 20% decline in attendance, the proposal may generate approximately \$283,000 annually.

School group fees have already been established by the Commission at \$1 per student. Seniors and children under 16 would be charged \$3. It is possible that an annual pass for \$24 might also be established. The proposal does not provide for a cap on fees. Consequently, the fees could change which would result in a change in revenue. Fees collected for admissions to historic sites and proceeds from sales and leases must be deposited in the Historic Sites Fund. At least 51% of the fees, or an estimated \$144,000, must be used for educational programs conducted at the historic site and for the maintenance and operation of the historic site. Revenue estimates for specific sites are listed below.

Estimated Revenue Generated by Admission Fees for Historic Sites			
Site	Operational Costs	Total Estimated Revenue	51% of Revenue Remaining at Site
Angel Mounds	\$14,223	\$52,794	\$26,925
Levi Coffin House (The site currently charges a fee.)	Operated by Levi Coffin House Association	\$9,950	\$5,075
Corydon Capitol	\$13,683	\$73,889	\$37,683
Culbertson Mansion	\$2,505/existing staff	\$15,713	\$8,014
Grissom Air Museum	Operated by Heritage Museum Foundation	\$292,371*	\$149,109
Lanier Mansion	\$13,683	\$23,139	\$11,800
Limberlost	Operated by Friends of Limberlost	\$13,633	\$6,953
New Harmony (already charges fees)	Operated by Historic New Harmony	\$91,090	\$46,456
Gene Straton Porter	\$2,505/existing staff	\$26,115	\$13,319
Ernie Pyle	\$2,505/existing staff	\$8,353	\$4,260
Pigeon Roost (not staffed)	\$0	\$0	\$0
T.C. Steele	\$2,505/existing staff	\$12,403	\$6,325
Vincennes	\$2,505/existing staff	\$50,999	\$26,009
Whitewater Canal	\$14,223	\$36,965	\$18,852
Totals	One-time equipment costs: \$21,620	\$283,069	\$144,365
	ongoing annual: \$55,812		
	Total: \$77,432		
Note: Attendance figures and consequently admission fee revenue will probably increase after the initial decrease that will probably result due to the establishment of a fee. Also, the actual date of implementation for the fees may vary. Some equipment costs are not specifically identified by site in this table. *From fees only. Already has gift shop, tours, etc.			

The bill establishes the Historic Site Fund to provide funding for educational programs and the operation of historic sites. The Treasurer of State must invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Money in the fund at the end of a state fiscal year does not revert to the state General Fund. Money in the fund is annually appropriated to the Division.

An estimated \$50,000 of the fund that remains with the state will be used for marketing. The remaining amount will be used for general support for all sites, including legal support, human resources, etc.

Explanation of Local Expenditures:

Pest Control Compact. Local units may benefit from the assistance in the control of pest infestations which could reduce local expenditures that would be used to control infestations.

Oil and Gas Reporting. Class D Felony: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues:

Oil and Gas Reporting. Class D Felony: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Commissioner of Agriculture, the Department of Correction, Natural Resources Commission, Department of Natural Resources, the DNR's Division of State Museums and Historic Sites, and the Treasurer of State.

Local Agencies Affected: Units responsible for controlling pest infestations; trial courts, local law enforcement agencies.

Information Sources: John Davis, DNR Deputy Director, and Tom Holman, DNR; Dr. Robert Waltz, State Entomologist and Director of the DNR Division of Entomology and Plant Pathology; Indiana Sheriffs Association, Department of Correction.

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